

Message Text

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SUBJECT: CIVAIR: AUSTRIAN DENUNCIATION OF CIVAIR AGREE-
MENT

REF: (A) VIENNA 1816 (B) STATE 44010 (C) MAGNOR/AMBACH
TELECON 2/28

1. THERE FOLLOWS TEXT OF US PROPOSED MEMORANDUM OF
CONSULTATION GIVEN TO AUSTRIAN DEL FEBRUARY 16. (SEE PARA
4, REF B)

BEGIN TEXT:

(PARA) DELEGATIONS REPRESENTING THE GOVERNMENTS OF AUSTRIA
AND THE UNITED STATES OF AMERICA MET IN WASHINGTON FROM
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FEBRUARY 15 TO 17, 1978, TO DISCUSS CERTAIN QUESTIONS
GROWING OUT OF THE PROPOSED SERVICES TO BE OFFERED BY THE
DESIGNATED U.S. AIRLINE UNDER THE AUSTRIA-UNITED STATES
AIR TRANSPORT AGREEMENT OF JUNE 23, 1966. LISTS OF THE
MEMBERS OF BOTH DELEGATIONS ARE ATTACHED.

(PARA) THE AUSTRIAN DELEGATION INDICATED THAT THE PRO-

POSED SERVICES OF THE U.S.-DESIGNATED AIRLINE BETWEEN

MARCH 3 AND APRIL 29, 1978 WOULD UNDULY AFFECT THE SERVICES OF THE AUSTRIAN AIRLINE ON THE LONDON-VIENNA ROUTE SEGMENT DURING THAT PERIOD. THE AUSTRIAN DELEGATION STATED THAT THE AUSTRIAN AIRLINE CONCENTRATES ITS SCHEDULED SERVICES WITHIN IATA TRAFFIC CONFERENCE AREA 2. THE AUSTRIAN DELEGATION THEREFORE PROPOSED AMENDING THE AIR TRANSPORT AGREEMENT TO ELIMINATE U.S. FIFTH-FREEDOM RIGHTS TO INTERMEDIATE OR BEYOND POINTS SERVED BY AUSTRIAN AIRLINES.

(PARA) THE U.S. DELEGATION STATED THAT IT COULD NOT ACCEPT THIS PROPOSAL. THE U.S. DELEGATION INDICATED THERE WAS NO PROBLEM FOR THE AUSTRIAN AIRLINE, IN ANY EVENT, SINCE THE U.S. DESIGNATED AIRLINE NOW INTENDED TO DEFER SERVING VIENNA UNTIL APRIL 30, 1978, AND ON THAT DATE OR SOONER, IF POSSIBLE, IT WILL SERVE THE U.S.-AUSTRIAN MARKET WITH NONSTOP SERVICES.

(PARA) THE AUSTRIAN DELEGATION SAID IT WOULD HAVE NO OBJECTION TO SERVICES BY THE U.S. DESIGNATED AIRLINE WITH FIFTH FREEDOM RIGHTS BETWEEN VIENNA AND POINTS THAT ARE NOT SERVED BY THE AUSTRIAN AIRLINE, WHETHER OR NOT SUCH POINTS ARE SET FORTH IN THE ROUTE ANNEX OF THE AIR TRANSPORT AGREEMENT. THE AUSTRIAN DELEGATION ALSO INDICATED LIMITED OFFICIAL USE

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IT WOULD HAVE NO OBJECTION TO CARRIAGE BY THE U.S. DESIGNATED AIRLINE OF ITS OWN STOPOVER TRAFFIC, AS DEFINED BY THE MEMORANDUM OF UNDERSTANDING OF MARCH 20, 1975, ON THE AIRLINE'S THROUGH SERVICES TO WARSAW ON THE CONDITION THAT THE AUSTRIAN GOVERNMENT, OR ITS AGENT, MAY MONITOR THE CHARACTER OF THE TRAFFIC. THE U.S. DELEGATION AGREED THAT THE U.S. DESIGNATED AIRLINE WOULD LIMIT ITS CARRIAGE OF TRAFFIC TO U.S.-VIENNA TRAFFIC, THROUGH U.S.-WARSAW TRAFFIC AND TO TRAFFIC STOPPING OVER IN VIENNA ON ITS SERVICES TO WARSAW AS SHOWN BY TICKET OR WAYBILL.

(PARA) THE UNITED STATES DELEGATION REQUESTED THAT THE AUSTRIAN DELEGATION CONSIDER AMENDMENTS OF THE AIR TRANSPORT AGREEMENT RELATING TO AVIATION SECURITY, COMMERCIAL OPERATIONS, USER CHARGES AND TARIFFS. THE AUSTRIAN DELEGATION STATED IT AGREED IN PRINCIPLE THAT PROVISIONS OF THIS TYPE MIGHT BE USEFUL BUT THAT IT WOULD PREFER TO STUDY THIS CONCEPT IN GREATER DETAIL. THE AUSTRIAN DELEGATION ALSO STATED IT WOULD CONSIDER INCORPORATION OF THE INTERIM AGREEMENT ON CHARTER AIR SERVICES OF 1973 IN THE AIR TRANSPORT AGREEMENT. THE U.S. DELEGATION SAID IT WOULD PROVIDE DRAFT PROVISIONS COVERING THESE ITEMS IN THE

NEAR FUTURE. END TEXT.

2. THERE FOLLOWS TEXT OF AUSTRIA PROPOSED MEMORANDUM OF CONSULTATION WHICH AUSTRIA DEL PRESENTED MORNING FEB. 17

BEGIN TEXT:

(PARA) DELEGATIONS REPRESENTING THE GOVERNMENTS OF AUSTRIA AND THE UNITED STATES OF AMERICAN MET IN WASHINGTON FROM FEBRUARY 15 TO 17, 1978, TO DISCUSS CERTAIN QUESTIONS GROWING OUT OF THE PROPOSED SERVICES TO BE OFFERED BY THE DESIGNATED U.S. AIRLINE UNDER THE AUSTRIA-UNITED STATES AIR TRANSPORT AGREEMENT OF JUNE 23, 1966. LISTS OF THE MEMBERS OF BOTH DELEGATIONS ARE ATTACHED. LIMITED OFFICIAL USE

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(PARA) 1) THE AUSTRIAN DELEGATION INDICATED THAT THE PROPOSED SERVICES OF THE U.S. DESIGNATED AIRLINE CONTEMPLATING A STOPOVER IN LONDON TO AND FROM VIENNA WOULD ADVERSELY AFFECT THE SERVICES OF THE AUSTRIAN AIRLINE ON THE LONDON-VIENNA ROUTE. THE AUSTRIAN DELEGATION ALSO INDICATED THAT SUCH A STOPOVER SERVICE WAS NOT IN THE BEST INTERESTS OF THE TRAVELING PUBLIC, AS A NONSTOP SERVICE BETWEEN NEW YORK AND VIENNA WAS NOT ONLY SUPERIOR BUT, ON THE BASIS OF TWA'S EXPERIENCE, ALSO FEASIBLE FROM A LOAD FACTOR POINT OF VIEW. THE AUSTRIAN DELEGATION THEREFORE PROPOSED AMENDING THE AIR TRANSPORT AGREEMENT 1966 TO ELIMINATE ALL U.S. FIFTH FREEDOM RIGHTS TO INTERMEDIATE OR BEYOND POINTS SERVED BY AUSTRIAN AIRLINES.

(PARA) THE US DELEGATION STATED THAT IT WAS NOT NECESSARY TO AMEND THE AIR TRANSPORT AGREEMENT OF 1966 IN THIS MANNER AS, FROM AND AFTER APRIL 29, 1978, AT THE LATEST, ANY U.S. AIRLINE DESIGNATED TO SERVE AUSTRIA WOULD DO SO ONLY WITH A NON STOP NEW YORK-VIENNA SERVICE.

(PARA) 2) THE AUSTRIAN DELEGATION INQUIRED WHETHER THERE WOULD BE ANY U.S. CARRIER SERVICE BETWEEN VIENNA AND NEW YORK FROM MARCH 3, 1978, (WHEN TWA TERMINATES ITS SERVICES) THROUGH APRIL 29, 1978.

(PARA) THE U.S. DELEGATION REPLIED THAT THERE WOULD BE NO SUCH SERVICE DURING THIS PERIOD BY A U.S. FLAG CARRIER.

(PARA) THE AUSTRIAN DELEGATION STATED ITS REGRETS AND INDICATED THAT IT WAS DISAPPOINTED TO SEE THIS TRAFFIC DIVERTED NECESSARILY TO SIXTH FREEDOM CARRIERS. THE LIMITED OFFICIAL USE

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AUSTRIAN DELEGATION ALSO EXPRESSED THE HOPE THAT THERE WOULD BE NO SIMILAR FUTURE CURTAILMENT OF NON-STOP VIENNA-NEW YORK SERVICE BY A U.S. CARRIER, AS SUCH A SERVICE WAS ESSENTIAL FOR THE INTERESTS OF THE TRAVELING PUBLIC BETWEEN THE TWO COUNTRIES.

(PARA) 3) THE AUSTRIAN DELEGATION STATED THAT, IN ANY EVENT, IT WOULD HAVE NO OBJECTION TO SERVICES BY A U.S. DESIGNATED AIRLINE WITH FIFTH FREEDOM RIGHTS BETWEEN AND BEYOND VIENNA FROM OR TO ANY POINTS THAT ARE NOT SERVED BY THE AUSTRIAN DESIGNATED AIRLINE.

(PARA) THE AUSTRIAN DELEGATION ALSO STATED THAT IT WOULD HAVE NO OBJECTION TO CARRIAGE BY A U.S. DESIGNATED AIRLINE OF ITS OWN STOPOVER TRAFFIC, AS DEFINED BY THE MEMORANDUM OF UNDERSTANDING OF MARCH 20, 1975, ON THE AIRLINE'S THROUGH SERVICES TO WARSAW EXCLUSIVELY ON THE CONDITION THAT THE AUSTRIAN AUTHORITIES MAY MONITOR THE CHARACTER OF THE TRAFFIC.

(PARA) 4) THE U.S. DELEGATION AGREED THAT ANY U.S. DESIGNATED AIRLINE SERVING VIENNA WOULD CARRY NO FIFTH FREEDOM TRAFFIC BETWEEN THE UNITED STATES AND VIENNA AND POINTS BEYOND, EXCEPT TO OR FROM POINTS NOT SERVED BY AUSTRIAN AIRLINES. IN CASE THE AUSTRIAN DESIGNATED AIRLINE PLANS TO START ITS OWN OPERATION ON SUCH A ROUTE OR ROUTES, THE AUSTRIAN AUTHORITIES WILL ADVISE THE AMERICAN AUTHORITIES AT LEAST SIX MONTHS PRIOR TO THE PLANNED DATE OF THE INTRODUCTION OF THIS OPERATION.

(PARA) 5) THE UNITED STATES DELEGATION REQUESTED THAT THE AUSTRIAN DELEGATION CONSIDER AMENDMENTS OF THE AIR TRANSPORT AGREEMENT OF 1966 RELATING TO AVIATION SECURITY, COMMERCIAL OPERATION, USER CHARGES, TARIFFS, AND INCORPORATION OF THE INTERIM AGREEMENT ON CHARTER AIR SERVICES

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OF 1973 IN THE AIR TRANSPORT AGREEMENT OF 1966.

(PARA) THE AUSTRIAN DELEGATION STATED IT AGREED IN PRINCIPLE, BUT THAT IT WOULD PREFER TO STUDY THIS REQUEST IN GREATER DETAIL.

(PARA) THE U.S. DELEGATION SAID IT WOULD PROVIDE DRAFT

PROVISIONS COVERING THESE ITEMS IN THE NEAR FUTURE.

WASHINGTON, FEBRUARY 17, 1978

END TEXT.

3. BOTH DELS WORKED ON TEXTS MORNING AND EARLY AFTERNOON
FEBRUARY 17 COMBINING ELEMENTS OF BOTH AND MAKING
STYLISTIC AND OTHER EDITORIAL CHANGES. IMPASSE WAS
REACHED AT PARA 4 OF AUSTRIAN TEXT WHICH WOULD REQUIRE
U.S. TO RENOUNCE FORMALLY FIFTH FREEDOM RIGHTS ON AUA
ROUTES. AS ONE OF SEVERAL PROPOSALS AROUND THIS PROBLEM,
.S. DEL SUGGESTED; REPHRASING PARA 4 AS STATED AUSTRIAN DEL
POSITION COUPLED WITH U.S. COMMITMENT TO NEGOTIATE -
MODIFICATION OF CAPACITY PROVISION AND ROUTE ANNEX OF
AGREEMENT IF AND WHEN REQUESTED BY AUSTRIAN SIDE.
AUSTRIAN DEL REJECTED THIS PROPOSAL AND INSISTED ON ITS
PARA 4 LANGUAGE OR SOME EQUIVALENT SETTING FORTH U.S.
RENUNCIATION OF FIFTH FREEDOM RIGHTS.

4. TRANSCRIPT OF SESSIONS POUCHED TO EMBASSY.

VANCE

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